

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

BILLY G. TERRY,
Plaintiff,

v.

DARYL L. DORSEY, et al.,
Defendants.

Case No. 20-07859 BLF (PR)

**ORDER GRANTING EXTENSION
OF TIME TO FILE AMENDED
COMPLAINT**

Plaintiff, a state inmate, filed the instant *pro se* civil rights action pursuant to 42 U.S.C. § 1983 against prison staff at San Quentin State Prison (“SQSP”).¹ On March 19, 2021, the Court dismissed the complaint with leave to amend within twenty-eight days of the order. Dkt. No. 9. The deadline has passed, and Plaintiff has not filed an amended complaint. However, the Court notes that on March 12, 2021, Plaintiff filed a notice of change of address and another on April 7, 2021, indicating that he has been moved to Chino State Prison. Dkt. Nos. 7, 10. It is unclear from the docket whether the Order of Dismissal with Leave to Amend was sent to Plaintiff’s former address or to his current address at CSP. Dkt. Nos. 8, 9. In an abundance of caution, the Court will order another

¹ The matter was reassigned to this Court on December 8, 2020, after Plaintiff did not file consent to magistrate judge jurisdiction in the time provided. Dkt. Nos. 3, 5.

1 copy of the last court order be sent to Plaintiff at CSP. Plaintiff shall be granted an
2 extension of time to file an amended complaint that complies with the court order.

3
4 **CONCLUSION**

5 Based on the foregoing, the Court orders as follows:

6 1. The Court *sua sponte* grants Plaintiff an extension of time to file an amended
7 complaint. Within **twenty-eight (28) days** of the date this order is filed, Plaintiff shall file
8 an amended complaint to correct the deficiencies described in the Court's "Order of
9 Dismissal with Leave to Amend." Dkt. No. 9. The amended complaint must include the
10 caption and civil case number used in this order, Case No. C 20-07859 BLF (PR), and the
11 words "AMENDED COMPLAINT" on the first page. If using the court form complaint,
12 Plaintiff must answer all the questions on the form in order for the action to proceed. The
13 amended complaint supersedes the original, the latter being treated thereafter as non-
14 existent. *Ramirez v. Cty. Of San Bernardino*, 806 F.3d 1002, 1008 (9th Cir. 2015).
15 Consequently, claims not included in an amended complaint are no longer claims and
16 defendants not named in an amended complaint are no longer defendants. *See Ferdik v.*
17 *Bonzelet*, 963 F.2d 1258, 1262 (9th Cir.1992).

18 2. Failure to respond in accordance with this order in the time provided will
19 result in the dismissal of this action without prejudice and without further notice to
20 Plaintiff.

21 3. The Clerk shall include a copy of the Court's last order filed under Docket
22 No. 9, along with two copies of the court's **complaint** and a copy of the court's form
23 **petition** with a copy of this order to Plaintiff.

24 **IT IS SO ORDERED.**

25 **Dated:** May 4, 2021


BETH LABSON FREEMAN
United States District Judge